

04-06-07

1634

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Practitioner's Docket No. U 015825-1

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In application of: RAFAEL ROSELL COSTA, et al  
 Application No.: 10/540,047

Group No.: 1634

Filed: November 10, 2006

Examiner: Steven C. Pohnert

For: DEVICE FOR ASSAYING POLYMORPHISMS OF GENE XPD/ERCC2  
 FOR THE CORRECT ADMINISTRATION OF CHEMOTHERAPY FOR LUNG  
 CANCER

Commissioner for Patents

P. O. Box 1450

Alexandria, VA 22313-1450

**PETITION AND FEE FOR EXTENSION OF TIME  
 TO MAINTAIN PARENT CASE  
 WHEN FILING NEW APPLICATION CLAIMING ITS BENEFIT**

**NOTE:** Where an extension of time is sought solely for the purpose of filing a continuation application under 35 U.S.C. 120, and where the prior application is to be abandoned in favor of the continuing application, the filing of a response as required by 37 C.F.R. §§ 1.111 or 1.113 is considered to be an unnecessary expenditure of resources by the applicant and, in these situations, the PTO will accept the filing of a continuing application as a response under 37 C.F.R. Section 1.136. Notice of May 13, 1983 (1031 O.G. 11).

**NOTE:** The PTO finds it useful if a copy of the petition filed in the prior application extending the term for response is filed with the papers constituting the filing of the continuation application. Notice of Nov. 5, 1985 (1060 O.G. 27).

**CERTIFICATION UNDER 37 C.F.R. 1.8(a) and 1.10\***  
 (When using Express Mail, the Express Mail label number is mandatory;  
 Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

**MAILING**

deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

**37 C.F.R. 1.8(a)**

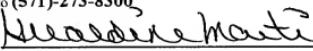
with sufficient postage as first class mail.

**37 C.F.R. 1.10\***

as "Express Mail Post Office to Address"  
 Mailing Label No. \_\_\_\_\_ (mandatory)

**TRANSMISSION**

transmitted by facsimile to the Patent and Trademark Office, to (571)-273-8300.



Signature

Date: April 5, 2007Geraldine Marti

(type or print name of person certifying)

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Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

1. This is a *bona fide* attempt by applicant to advance this application, while at the same time filing a:

*(check (a), (b) or (c) as applicable)*

(a)  Continuation application.  
(b)  Continuation-in-part application.  
(c)  Divisional application (*where parent case is to be abandoned*).

A copy of this petition is being filed with the papers constituting the filing of the separately filed application.

*NOTE: Each paper or fee referred to as enclosed herein has the number of the "Express Mail" label placed thereon prior to mailing. 37 C.F.R. Section 1.10(b).*

2. This is a petition under 37 C.F.R. Section 1.136(a) for an extension of time to respond to

*(check and complete (d) or (e), as applicable)*

(d)  the Office Action mailed December 8, 2006  
(e)  other \_\_\_\_\_

3.  Please abandon this application conditioned upon the granting of the petition and the granting of a filing date to the continuing application, so as to make the continuing application copending with this application. (*Notice of May 13, 1983, 1031 O.G. 11-12*).

4. Applicant is

a small entity.  
The statement:  
 is enclosed.  
 has already been filed. This status is still proper and its benefit under 37 C.F.R. Section 1.28(a) is hereby claimed.  
 other than a small entity.

5. Extension requested

The proceedings herein are for a patent application and the provisions of 37 C.F.R. Section 1.136 apply.

*(complete (a) or (b), as applicable)*

(a)  Applicant petitions for an extension of time under 37 C.F.R. Section 1.136(a) (fees: 37 C.F.R. Section 1.17(a)(1)-(4)) for the total number of months checked below:

Extension (months)	Fee for other than small entity	Fee for small entity
<input type="checkbox"/> one month	\$ 120.00	\$ 60.00
<input type="checkbox"/> two months	\$ 450.00	\$ 225.00
<input checked="" type="checkbox"/> three months	\$ 1,020.00	\$ 510.00
<input type="checkbox"/> four months	\$ 1,590.00	\$ 795.00
<input type="checkbox"/> five months	\$ 2,160.00	\$ 1,080.00

Fee: \$ 510.00

If an additional extension of time is required, please consider this a petition therefor.

*(check and complete the next item, if applicable)*

An extension for \_\_\_\_\_ months has already been secured and the fee paid therefor of \$ \_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request: \$ \_\_\_\_\_

OR

(b)  Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

6. Fee Payment

Attached is a check in the sum of \$ 510.00.  
 Charge Account No. \_\_\_\_\_ the sum of \$  
A duplicate of this transmittal is attached.

7. Fee Deficiency or Overpayment

*NOTE: If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in resuming the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986 (1065 O.G. 31-33).*

If any additional extension and/or fee or refund is required, charge or credit Account No. 12-0425

Reg. No.: 33,778

Tel. No.: (212)708-1935



SIGNATURE OF PRACTITIONER

JANET I. CORD

*(type or print name of practitioner)*

P.O. Address

c/o Ladas & Parry LLP  
26 West 61<sup>st</sup> Street  
New York, N.Y. 10023

Customer No.:00140



00140

PATENT TRADEMARK OFFICE